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VIA HAND DELIVERY

Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

REDACTED FOR PUBLIC INSPECTION

RE: **EX PARTE PRESENTATION**
Misuse of Internet Protocol (IP) Captioned Telephone Service
CG Docket No. 13-24

Dear Ms. Dortch:

Hamilton Relay, Inc. ("Hamilton") hereby submits for the record certain cost data with respect to its subcontractor for PSTN-based Captioned Telephone Services and Internet Protocol Captioned Telephone Services ("IP CTS"). As discussed below, the enclosed information contains highly confidential cost information which is by rule withheld from public disclosure,¹ and Hamilton requests that the enclosed information be withheld from public inspection.

Although IP CTS providers are not required to file annual projected cost and demand data with the interstate TRS Fund administrator (because the current IP CTS rate methodology does not rely on projected or annual costs), IP CTS providers have been voluntarily submitting such data, beginning with the 2013-14 Fund year.² Commission staff has informally requested that Hamilton disclose additional details about its subcontractor costs, and this filing is responsive to those informal requests. However, Hamilton wishes to underscore that the Commission has never formally requested cost data from IP CTS providers, and has never formally engaged in a proceeding to determine allowable and disallowable IP CTS costs, and thus cannot legally rely

¹ 47 C.F.R. § 64.604(c)(5)(iii)(I).

² *Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 13420, n.401 (2013).

on such voluntary cost submissions. To the extent that the Commission intends to abandon the current IP CTS rate methodology in favor of a cost-based approach (or any rate or methodology that relies on incomplete or voluntary cost reporting, or other proposals such as price caps), the Commission must make substantive proposals in the record and then seek appropriate comment about them.

Pursuant to Sections 0.457 and 0.459 of the Commission's rules, 47 C.F.R. §§ 0.457, 0.459, Hamilton requests that the entire contents of the enclosed information be kept confidential and withheld from public inspection.

Because the information in this filing is being submitted voluntarily to the Commission, and in the absence of any requirement by statute, regulation or the Commission for the submission of such information, Hamilton requests that, to the extent that the Commission denies Hamilton's request for confidentiality in whole or in part, Commission staff should return the enclosed materials without consideration of their contents or reliance on them in the record. See 47 C.F.R. § 0.459(e).

The enclosed materials include certain information owned or co-owned by a third party, and such third party reserves the right, pursuant to Section 0.459(i) of the Commission's rules, 47 C.F.R. § 0.459(i), to participate in any proceeding resolving the confidentiality of the enclosed materials.

In accordance with the requirements of Section 0.459(b), 47 C.F.R. § 0.459(b), Hamilton submits the following:

- 1) 0.459(b)(1): Identification of the specific information for which confidential treatment is sought: Hamilton requests that the entire contents of the enclosed information be treated as confidential and withheld from public inspection.
- 2) 0.459(b)(2): Identification of the Commission Proceeding in which the Information Was Submitted or a Description of the Circumstances Giving Rise to the Submission: The information is being submitted in CG Docket No. 13-24.
- 3) 0.459(b)(3): Explanation of the degree to which the information is commercial or financial, or contains a trade secret or is privileged: The enclosed information contains highly confidential and highly sensitive commercial information about Hamilton's costs. Pursuant to the Freedom of Information Act ("FOIA"), public disclosure of such information is not required if it contains "commercial or financial information obtained from a person and [is] privileged and confidential." 5 U.S.C. § 552(b)(4). Such information "would customarily be guarded from competitors." 47 C.F.R. § 0.457(d)(2). For this reason, Hamilton submits that the information contained in the chart is covered by the FOIA exception.

- 4) 0.459(b)(4): Explanation of the degree to which the information concerns a service that is subject to competition: Telecommunications Relay Services, including IP CTS, are competitive services with numerous competitors to Hamilton.
- 5) 0.459(b)(5): Explanation of how disclosure of the information could result in substantial competitive harm: If the contents of the enclosed information were disclosed, substantial competitive injury would occur because Hamilton's competitors would be able to obtain non-public sensitive information about Hamilton's costs for providing IP CTS, and the information could be used for anticompetitive purposes.
- 6) 0.459(b)(6): Identification of any measures taken by the submitting party to prevent unauthorized disclosure: Hamilton requires that its employees treat the enclosed information as confidential and privileged. In keeping with this practice, Hamilton has requested confidential treatment by the Commission.
- 7) 0.459(b)(7): Identification of whether the information is available to the public and the extent of any previous disclosure of the information to third parties: The enclosed information is proprietary, confidential, and not available to the public. The information has not been disclosed to third parties other than Hamilton's subcontractor and respective legal counsel.
- 8) 0.459(b)(8): Justification of the period during which the submitting party asserts that material should not be available for public disclosure: Due to the highly sensitive competitive cost information contained in this filing, Hamilton requests that the contents of this filing be kept confidential indefinitely.
- 9) 0.459(b)(9): Any other information: The public interest will be served if the Commission treats the enclosed information as confidential. Such treatment will allow the Commission to review provider-specific cost data without disclosing sensitive commercial information to the public.

Should you have any questions concerning this filing, please contact the undersigned.

Respectfully submitted,

WILKINSON BARKER KNAUER, LLP

/s/ David A. O'Connor

Counsel for Hamilton Relay, Inc.

Enclosure

[REDACTED]